

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

RICHARD LOUIS MARCRUM,                         )  
  )  
Petitioner,    )  
  )  
vs.    )      Case No. 4:02CV01167 AGF  
  )  
  )  
AL LUEBBERS,                                        )  
  )  
Respondent.    )

**MEMORANDUM AND ORDER**

This matter is before the Court on the motion of Petitioner Richard Marcrum for a Certificate of Appealability under 28 U.S.C. § 2253(c)(1)(A), for his cross appeal with regard to claims rejected by this Court. On September 30, 2005, this Court granted Petitioner habeas corpus relief under 28 U.S.C. § 2254, based upon one of his claims of ineffective assistance of trial counsel. The Court denied relief as to Petitioner's two remaining claims. Respondent has appealed the Court's decision, and Petitioner now seeks a Certificate of Appealability under 28 U.S.C. §2253(c)(1)(A), with regard to his rejected claims. The Court does not believe that Petitioner has made a "substantial showing of the denial of a constitutional right" as to these claims, nor does the Court believe that "reasonable jurists" might find the Court's assessment of the merits of Petitioner's rejected claims "debatable or wrong." See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (standard for issuing a Certificate of Appealability) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)).

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner Richard Marcrum's motion for a Certificate of Appealability with regard to his rejected claims for habeas relief is **DENIED**. [Doc. #34]

*Audrey G. Fleissig*  
AUDREY G. FLEISSIG  
UNITED STATES MAGISTRATE JUDGE

Dated this 28th day of October, 2005.

